

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PAOLA B. COLON,

Plaintiff,

-against-

GRAF REPETTI & CO., LLP and  
FAMILY OFFICE GROUP, LLC,

Defendants.

**Civil Action  
No.: 07-9572**

**NOTICE OF MOTION**

**Hon. Robert. P. Patterson, Jr.**

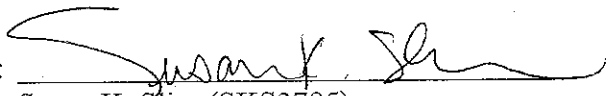
Return Date: January 17, 2008

**PLEASE TAKE NOTICE** that upon this Notice of Motion, the Declaration of Susan K. Slim, dated December 17, 2007, the exhibits annexed thereto and accompanying Memorandum of Law in Support, defendants Graf Repetti & Co. LLP and Family Office Group, LLC, by their undersigned counsel, will move this Court, in accordance with Local Civil Rule 6.1(b) of the Southern District and Rule 2 of the Individual Rules of Practice of the Hon. Robert. P. Patterson, Jr., at the Daniel Patrick Moynihan United States Courthouse, United States District Court, Southern District, 500 Pearl Street, Room 2550, New York, New York 10007, on the 17<sup>th</sup> Day of January, 2008, for an Order, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), dismissing the Verified Complaint of plaintiff, Paola B. Colon, with prejudice, and for such other and further relief as this Court deems just and proper.

Dated: New York, New York  
December 17, 2007

Respectfully Submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By:   
Susan K. Slim (SKS3785)

David S. Sheiffer (DSS 4198)  
*Attorneys for Defendants*  
Graf Repetti & Co., LLP and  
Family Office Group, LLC  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PAOLA B. COLON,

Plaintiff,

-against-

GRAF REPETTI & CO., LLP and  
FAMILY OFFICE GROUP, LLC,

Defendants.

**Civil Action**  
**No.: 07-9572**

**DECLARATION OF**  
**SUSAN K. SLIM**

**Hon. Robert. P. Patterson, Jr.**

Return Date: January 17, 2008

Susan K. Slim, declares, pursuant to the provisions of 28 U.S.C. § 1746:

1. I am associated with the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, attorneys for defendants Graf Repetti & Co., LLP ("GR&C") and Family Office Group, LLC ("FOG") (hereinafter collectively referred to as "defendants") in the above matter. As such, I am fully familiar with the facts and circumstances set forth herein.

2. This Declaration, together with the exhibits annexed hereto and accompanying Memorandum of Law, is submitted in support of defendants' motion seeking an Order dismissing the Verified Complaint of Paola Colon ("plaintiff"), with prejudice: (a) for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), under the Rooker-Feldman Doctrine and Doctrine of Collateral Estoppel; and/or (b) for failure to state a cause of action under which relief may be granted, pursuant to Fed. R. Civ. P. 12(b)(6); and (c) for such other and further relief as this Court deems just and proper.

3. A true and accurate copy of the “Affidavit of Shera L. Haliczzer in Opposition to Defendant’s Motion to Dismiss,” dated April 5, 2007, is annexed hereto, and made a part hereof, as Exhibit “A”.

4. A true and complete copy of plaintiff’s “Personnel Action Form,” dated June 14, 2006, is attached hereto, and made a part hereof, as Exhibit “B.”

5. A true and complete copy of “Family Group, LLC, Firm Handbook,” is attached hereto, and made a part hereof, as Exhibit “C.”

a. A true and accurate copy of “Family Office Group, LLC, Anti Discrimination Guidelines,” signed by Paola Colon on December 3, 2004, is attached hereto, and made a part hereof, as Exhibit “C(1).”

b. A true and accurate copy of “Family Office Group, LLC, Anti Discrimination Guidelines,” signed by Paola Colon on December 8, 2004, is attached hereto, and made a part hereof, as Exhibit “C(2).”

c. A true and accurate copy of “Family Office Group, LLC, Anti-Sexual Harassment Guidelines,” signed by Paola Colon on December 3, 2004, is attached hereto, and made a part hereof, as Exhibit “C(3).”

d. A true and accurate copy of “Family Office Group, LLC, Anti-Sexual Harassment Guidelines,” signed by Paola Colon on December 8, 2005 is attached hereto, and made a part hereof, as Exhibit “C(4).”

6. A true and complete copy of the Summons and Complaint, filed in Supreme Court, County of Westchester, under Index Number 23329/06, on November 28, 2006, under the

caption *Peter Graf and Nancy Kunak v Paola B Colon*, are attached hereto, and made a part hereof, collectively, as Exhibit "D".

7. A true and complete copy of plaintiff's January 30, 2007, Notice of Motion to Dismiss in lieu of an Answer, Affidavit in Support and Memorandum of Law are attached hereto, and made a part hereof, without exhibits, collectively, as Exhibit "E".

8. A true and complete copy of the Verified Amended Complaint, filed in Supreme Court, County of Westchester, under Index Number 23329/06, on February 21, 2007, bearing the caption *Peter Graf, Nancy Kunak and Family Office Group, LLC v Paola B. Colon*, is attached hereto, and made a part hereof, as Exhibit "F."

9. A true and complete copy of Colon's March 8, 2007, Motion to Dismiss the Amended Complaint, Affidavit in Support and accompanying Memorandum of Law are attached hereto, and made a part hereof, without exhibits, as Exhibit "G".

10. A true and complete copy of the "Release Letter to Paola B. Colon," dated November 29, 2006, is attached hereto, and made a part hereof, as Exhibit "H."

11. A true and complete copy of Colon's March 16, 2007 EEOC Complaint is attached hereto, and made a part hereof, as Exhibit "I."

12. A true and complete copy of the April 13, 2007 Court Order, with Notice of Entry dated May 2, 2007, granting Colon's motion to dismiss on the infliction of emotional distress cause of action and denying plaintiff's remaining petition to dismiss all other causes of action against her, is attached hereto, and made a part hereof, as Exhibit "J".

13. A true and complete copy of Roy A. McKenzie's supplemental EEOC letter, dated April 23, 2007, invoking violations of the FMLA, Americans with Disabilities Act and Title VII, is attached hereto, and made a part hereof, as Exhibit "K."

14. A true and complete copy of the plaintiff's May 7, 2007, Verified Answer to the Amended Complaint is attached hereto, and made a part hereof, without exhibits, as Exhibit "L".

15. A true and complete copy of the July 23, 2007, Affirmation in Support of Plaintiffs' Motion to Dismiss Defendant's Counterclaim in the underlying action and accompanying Memorandum of Law are attached hereto, and made a part hereof, without exhibits, collectively, as Exhibit "M".

16. A true and complete copy of the EEOC "Right to Sue Letter," dated September 19, 2007, issued upon request of plaintiff's counsel, is affixed hereto, and made a part hereof, as Exhibit "N."

17. A true and complete copy of the September 26, 2007, Court Order dismissing Colon's counterclaim under the Family Medical Leave Act, with Notice of Entry dated October 12, 2007, is attached hereto, and made a part hereof, as Exhibit "O".

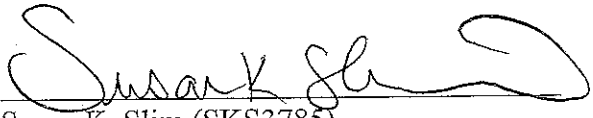
18. A true and complete copy of plaintiff's October 23, 2007 Complaint, bearing the caption *Paola B. Colon v. Graf Repetti & Co., LLP and Family Office Group, LLC*, filed in the United States District Court, Southern District of New York, under Civil Index Number 07-9572, is affixed hereto as Exhibit "P."

19. I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: New York, New York  
December 17, 2007

Respectfully Submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By:   
Susan K. Slim (SKS3785)  
David S. Sheiffer (DSS 4198)  
*Attorneys for Defendants*  
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